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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Philip Stephen Smith, et al. Examiner: Mosser, Robert E.
Serial No. 10/764,995 Group Art Unit: 3714
Filed: January 26, 2004 Docket No. PA0959.ap.US
Title: AUTOMATED MULTIPLAYER GAME TABLE WITH UNIQUE IMAGE
FEED OF DEALER

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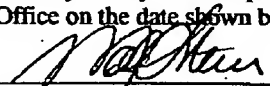
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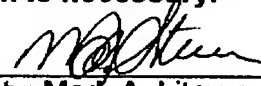
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The following documents are hereby submitted:

- ☒ Reply Brief to Examiner's Answer (16 pages)
- ☒ Transmittal Sheet
- ☒ Facsimile Cover Sheet

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Mark A. Litman
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MAR 02 2009
PATENTS/N 10/764,995

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Philip Stephen Smith, et al.	Examiner:	R.E. Mosser
Serial No.	10/764,995	Group Art Unit:	3714
Filed:	January 26, 2004	Docket No.	PA0959.ap.US
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MAIL STOP: APPEAL BRIEF - PATENTS
P.O. BOX 1450
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

This REPLY BRIEF is being filed in response to the New Issues raised in the Examiner's Answer mailed on 02 February 2009. The U.S. Patent and Trademark Office is hereby authorized to debit any costs and fees associated with this Petition to Deposit Account No. 50-1391. Appellant(s) is submitting this single copy of the Reply Brief in Compliance with the requirements of 37 CFR 41.37(c). Appellant requests a personal appearance at the Board of Appeals, but will defer payment of the fee until after receipt of the Examiner's Answer.

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP: APPEAL BRIEF - PATENTS, P.O. BOX 1450, Commissioner for Patents, Alexandria, VA 22313-1450 2 March 2009.

Mark A. Litman
Name


Signature

STATUS OF CLAIMS

Claims 1-17, all of the claims in this application have been finally rejected.

Claims 1-17, all of the claims in this Application are on Appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Solely for the purposes of expediting this Appeal and complying with the requirements of 37 C.F.R. 1.192(c)(7), the following grouping of claims is presented. This grouping is not intended to constitute any admission on the record that claims within groups may or may not be independently asserted in subsequent litigation or that for any judicial determination other than this Appeal, the claims may or may not stand by themselves against any challenge to their validity or enforceability.

1. Claims 1-17 have been rejected under the Non-Statutory Ground of Obviousness-Type Double Patenting over at least claim 75 of copending U.S. Application 10/910713.
2. Claims 1-16 are rejected under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.) when considered with Published U.S. Patent Application 20020147987 (Reynolds).
3. Claims 17 is under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.), when further considered with U.S. Patent No. 6,731,416 (Hazzard).

ARGUMENT

The Examiner has raised New Issues in responding to the following remarks made in the Brief on Appeal. The new issue is an attempt to assert a definition of “merge” that is not in common usage, not used in the specification of Appellant, and for which no basis of the assertion of the definition can be found.

The common meaning of the word “merge,” which is the standard to be used in interpreting the word, in the absence of specific definition in the specification should be, as shown in the attached Random House Dictionary page 1203,

“1. To cause to combine or coalesce; unit. 2. To combine, blend or unite gradually to blend the individuality or individual identity of...”

This placing of the dealer image within the same area of the screen as the background (e.g., see figures and specification of Appellant) is exactly the meaning that Appellant intends. To the contrary, Toyoda (cited in the rejection and asserted to show merging) consistently and repeatedly maintains distinct, separate and uniform areas for the different portions of the image displayed. There is no merger, but merely box-in-screen display of separate and distinct images in separate and distinct areas of the screen.

This is a new issue (an attempt to redefine “merge” in a manner that would equate to the disclosure of Toyoda), when in fact the asserted definition is in error. As shown in the following original arguments on this point, and in the common definition of the term, this argument is in error.

2. Claims 1-16 are rejected under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.) when considered with Published U.S. Patent Application 20020147987.

Remarks in the Rejections and Comments of the Examiner (Page 7-10)

The rejection asserts that arguments that the processor of Toyoda would be insufficient to merge two video feeds are in error because of Figures 4 and 13C of Toyoda. (**emphasis** added)

The fault in this position is that the description of the content of Figures 4 and 13C clearly show that images are **not merged**, but are merely juxtaposed, separate dedicated areas on a single screen with a sharp line of demarcation between content in the

separate areas. Note specifically Toyoda's description of Figure 4 from paragraphs [0117] – [0123]. The various images are shown on three separate video devices 32, 42 and 52. This is absolutely clear from the teachings of Toyoda explicit to Figures 4 and 13C. Note the specific statement in paragraph [0117] that "The image data to be displayed on display device 32 corresponds to display area R2, the image data to be displayed on display device 42 corresponds to display area 43, and the image data to be displayed on each display device 52 corresponds to display area R4." Even though Figure 4 gives a false impression of image overlay, the actual description and the schematic on Figure 3 clearly show three distinct display devices 32 42 52 and separate data fed to each display device. There is no merging of image data of a dealer on a background.

Additionally, the claim requires that "wherein the background comprises at least one dynamic image." It is impermissible to merely assert that every computer is capable of doing this. The claim requires this dynamic feed to be present in an overlain combination with the merged image (not merely juxtaposed in separate areas) and there is no disclosure or teaching of a dynamic feed merged with a dealer image. It is impermissible to assume functional capability and the use of the functional capability and the provision of functional capability from any computer. The logical extreme extension from such a position is that any use of a computer is obvious as any computer could perform that function. That position is not in compliance with 35 USC 103(a) or U.S. Patent Office standards for rejection of structures containing computers which recites function and software.

The arguments by the US Patent and Trademark Office with respect to Figure 13C fail to recognize that those images and image devices are not the image functions or devices claimed by the present claims. **The images on devices 52A-D are the images on individual player screens.** Note Figure 1 and the location therein of elements 52A, 52B, 52C and 52D. These are the player monitors. The function and objective of Figure 13C is not instructive of the subject matter of claims 1-17. The separate display areas for player images and card images on the player screens are not instructive of providing a merged image of a dealer image and a **dynamic background image.**

The Office Action further asserts that Figures 4 and 15 show multiple feeds and the presentation of the multiple feeds on a common display... while the combination of Toyoda and Reynolds is provided to replace a possibly static background of the dealer

with a live background. The multiple feeds are for use on the player monitors 52 (A-D) **and not the recited functions of providing a dealer image on a dynamic background.**

Even if the proposed combination of replacing the “background” described in Toyoda with a video feed background of Reynolds were made, that replacement would occur on the players’ monitors and would not provide the method, function and structure recited in the claims, the combination of a dealer image with the dynamic background behind the dealer displayed image. Reynolds is a purely technical capability function and has no direct implications or teachings related to the gaming art or the objectives of the present technology.

The present technology allows the dealer display to be readily adjusted to the intent of the casino managers, with dealer images replaceable to match the make-up of the players, and dynamic background images replaceable to meet casino objectives of entertainment or thematic display. That concept and method is not disclosed by Toyoda in view of Reynolds. Toyoda must combine card images and player images on the separate areas of the player monitor to achieve desired Toyoda effects, but there is no suggestion or technical disclosure of:

software that merges the at least two multiple video images to form a composite image of a dealer against a background, ...

wherein the background comprises at least one dynamic image.

The combination of references fails to teach the subject matter of the claims or make that subject matter obvious to one skilled in the art.

The Examiner also asserts that the previous arguments do not consistently apply and discuss the terms of “dynamic image,” “video feed,” and the like. Applicants disagree. Applicants appreciate that a video feed within the content of the Reynold’s disclosure may be a dynamic image, but that the images of Toyoda are not combined in a display of a dealer image against a dynamic image background.

Additionally, claim 2 specifically recites a live feed as part of the merged background image, thus limiting the dynamic image to a live dynamic image from a camera.

INDEPENDENT PATENTABILITY OF CLAIM 3 AND ALL CLAIMS

DEPENDENT THEREFROM

Additionally claim 3 recites that:

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“...the processor having a file source feeding at least one set of video image data as a mask layer and at least one other set of video image data as an auxiliary dynamic background image for display of the merged image.”

Neither Toyota nor Reynolds has been cited as showing the combination of the **THREE IMAGES** (as recited in the claim) in the first video display to combine the dealer image, the mask image and the dynamic background image. Claim 3 and each claim dependent therefrom is clearly novel and unobvious over the art cited in the rejection.

CONCLUSION

All rejections have been shown to be overcome by the previously arguments submitted. The new issue has been shown to be in error. All rejections should be reversed in view of the above arguments, all claims should be allowed and the Application should be passed to Issue. If the Examiner believes that some issues may be further overcome by an interview with the Attorney of Record (either by telephone or in person), the Examiner is respectfully requested to call the attorney of record at **952.832.9090 (CST)** at his convenience.

Respectfully submitted,

PHILIP S. SMITH, et al.

By Their Representatives,

MARK A. LITMAN & ASSOCIATES, P.A.
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3209 West 76th Street
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(952) 832-9090

Date: 2 March 2009

By: 

Mark A. Litman
Reg. No. 26,390

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Mark A. Litman

CLAIMS APPENDIX**1. (APPEALED) An automated wagering gaming event system comprising:**

at least two distinct video displays, a first video display for showing a dealer in a card game and at least a second video display showing playing cards to individual players;

at least one processor for enabling play of the wagering gaming event;

multiple player positions to enable multiple players to play the game;

wherein the at least one processor is connected to at least two distinct feeds of video information so that the processor is fed the at least two different multiple video images and the at least one processor contains software that merges the at least two multiple video images to form a composite image of a dealer against a background,

at least two separate feeds of video image information connected to sources of different video content that are fed into the processor and are merged in the at least one processor and then displayed on the first video display;

wherein the background comprises at least one dynamic image.

2. (APPEALED) An automated wagering gaming event system comprising:

at least two distinct video displays, a first dealer video display for showing a dealer in a card game and at least a second video display showing playing cards provided to individual players;

at least one processor for enabling play of the wagering gaming event;

a live camera feeding live video data to the at least one processor;

multiple player positions to enable multiple players to play the game;

wherein the at least one processor is connected to at least two distinct feeds of video information so that the processor is fed the at least two different multiple video images and merges the at least two multiple video images to form a composite image of a dealer against a background,

the at least one processor having a feed from a live video image from a live camera that that is one of the at least two distinct feeds that is merged and provides a background component for a video feed of the image of the dealer that is virtually merged on the first screen to show a dealer with a live video image background.

3. (APPEALED) An automated wagering gaming event system comprising:
at least two distinct video displays, a first dealer video display for showing a foreground image of a dealer in a card game, and at least a second video display showing playing cards to individual players;
at least one processor for enabling play of the wagering gaming event;
multiple player positions to enable multiple players to play the game;
wherein at least one of the processors is transmission connected to separate feeds for at least three different sets of video image data and the at least one processor has software therein that is executed and merges the at least three multiple video images to form a composite image of a dealer against a background,
a feed to the first video display screen that carries the composite image; and
the processor having a file source feeding at least one set of video image data as a mask layer and at least one other set of video image data as an auxiliary dynamic background image for display of the merged image.
4. (APPEALED) The automated wagering system of claim 3 wherein the auxiliary image is presented as a picture-in-picture image is positioned into at least one of the dealer display or the second image display.
5. (APPEALED) The automated wagering system of claim 2 wherein a picture-in-picture image is positioned into at least one of the dealer display or the second image display.
6. (APPEALED) The automated wagering system of claim 3 wherein a picture-in-picture image is positioned into at least one of the dealer display or the second image display.
7. (APPEALED) The automated wagering system of claim 1 wherein a multiple number of dynamic background images are stored in files and the files are connected through a feed into the at least one processor for the dealer foreground image are stored in the system and are available for feed into the first dealer display.
8. (APPEALED) The automated wagering system of claim 2 wherein a multiple number of background images are stored in files and the files are connected through a feed into the at least one processor for the dealer foreground image are available for feed into the

first dealer display, wherein at least one background image is a dynamic background image.

9. (APPEALED) The automated wagering system of claim 3 wherein a multiple number of background images are stored in files and the files are connected through a feed into the at least one processor for the dealer foreground image are available for feed into the first dealer display.

10. (APPEALED) The automated wagering system of claim 6 wherein a multiple number of background images are stored in files and the files are connected through a feed into the at least one processor for the dealer foreground image are available for feed into the first dealer display.

11. (APPEALED) The automated gaming system of claim 1 comprising a gaming table and an upright video display panel comprising:

a table having an upper surface, the upper surface having a video display surface that provides a continuous field of video display and at least two different player positions; and

at least one main game processor in information communication with the upright video display panel and the video display surface, the processor directing video display on both the upright video display panel and the video display surface, and providing game rules for the play of at least one casino table card game without the use of physical cards on the table.

12. (APPEALED) The automated gaming system of claim 11 wherein each player position has an individual player processing board dedicated to that position.

13. (APPEALED) The automated gaming system of claim 12 wherein each individual player processing board communicates directly with a main game processor.

14. (APPEALED) The automated gaming system of claim 12 wherein each individual player processing board communicates directly with a single Dealer game engine processor.

15. (APPEALED) The automated gaming system of claim 14 wherein the single Dealer game engine processor communicates directly with the main game processor.

16. (APPEALED) The automated gaming system of claim 11 wherein the main game processor is programmable to display and execute different casino table games, wherein cards are used in the play of each of the games.

17. (APPEALED) The automated gaming system of claim 11 wherein the video display surface has changeable light filtering that can screen displayed images from various angles.

EVIDENCE APPENDIX

Appellants submit the attached definition of "merge" from the Random House Compact Unabridged Dictionary as secondary or supplemental evidence submitted during the prosecution of this Application that must be considered by the Board of patent Appeals in this decision. The frontispiece, publication page and page 1203 are included therein.

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Frank C. Handflgen
a comedy (1686) by
wealthy or influential
man who works on a
thank you.

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Mt., L. Mercantur; akin to *mēt*; see *met*.
mtl: Dialect. Dial. a lake or pond
 + *-at*: Dialect. [bed. 800; ME OE, c. G
 + *-at*: Dialect. (for mure, L mare)
 + *-at*: boundary or boundary
 + *-at*: ME, OE (*kelmare*, c. ON
 + *-at*: all north
 + *-at*: *md* *māras* (mex; Eng. mare).

mer-gan-ser (mĕr'gan'ser) *n.* pl. *serres* (sĕn' col-lee-ri-ē), *ser*, any of several fish-eating diving birds of the subfamily *Mergidae*, having a narrow bill hooked at the tip and serrated at the edges. Also called *tree duck*. [1746-66; < NL, equiv. to *L. mergus*] *deriv.* a kind of water bird + *serres* (coarse)

mer-gle (mĕr'gl) *v.* *mer-gled*, *mer-ghing* —*tr.* *gl.* to cause to combine or coalesce; unite. *gl.* to combine.

[illegible]

Mergentz (*mür'gents*) *n.*, a statutory combination of two or more corporations for the transfer of the properties to one operating corporation; 2, any combination of two or more business enterprises into a single enterprise; 3, an act or instance of merging; [1720-50, MARR + -mentz]

Mertigui (*mür'guí*) *n.*, a seaport in S Burma, on the Andaman Sea, 44,000.

[illegible]

Middlebury (*meez'* du), n. a city in central Connecticut.
57,118.

meso- (*meez'*) con., 1. Great, as a great circle of the earth passing through the center of the globe from the north passing through the Arctic Circle to a point on the earth's surface. B. The half of such a circle included between the poles. 2. Astron. the great circle of the celestial sphere that passes through its poles and the observer's zenith, a point or period of highest development, greatest prosperity, or the like. A. (in anatomy) any of the pathways in the body along which odors travel. —*meso'-dial-ly*, adv. —*meso'-thesis*, n.

met- (*met'*) con., 1. To measure, as metrical; to meet people according to their merits. B. From Gk. *metron*, a measure, whence *metre*, a unit of length, —*met'-er*, n. 2. To measure under the influence of grace, as Ours, some- times made under the influence of grace, by righteousness of spiritual reward, acquired by righteousness of action, whence *metempsychosis*, transmigration of souls, —*met'-ic*, adj. 3. To measure, being worthy of, as *merit*, —*met'-ed*, adj. 4. based on merit, as *meritless*, —*met'-ing*, v. 5. to measure, as *metamorphose*, [1175]-1226; ME *to mētran* was worth of (or blame), in use of meat of meritorious pop. odors, —*met'-od-ly*, adv. —*met'-ology*, n.

marr /**maɪ** / *v.* to marry; **marr** /**maɪ** / *n.* a wife or husband; **marr** /**maɪ** / *adj.* married; **marr** /**maɪ** / *adv.* as a married person; **marr** /**maɪ** / *prep.* in marriage; **marr** /**maɪ** / *conj.* and; **marr** /**maɪ** / *intj.* yes, certainly; **marr** /**maɪ** / *excl.* oh my!; **marr** /**maɪ** / *participle* marrying; **marr** /**maɪ** / *past tense* married; **marr** /**maɪ** / *past participle* married; **marr** /**maɪ** / *present participle* marrying; **marr** /**maɪ** / *gerund* marrying; **marr** /**maɪ** / *adjective phrase* marriedly; **marr** /**maɪ** / *adverbial phrase* in marriage; **marr** /**maɪ** / *relative clause* who is married; **marr** /**maɪ** / *complementizer* that; **marr** /**maɪ** / *conjunction* and; **marr** /**maɪ** / *interjection* yes, certainly; **marr** /**maɪ** / *particle* oh my!

[illegible][illegible]**marlon**

RELATED PROCEEDINGS APPENDIX

Neither Appellants nor their counsel on this Appeal are aware of any proceedings before the US Patent and Trademark Office or any US Judicial or Quasi-Judicial authority that relates directly towards any issues in this Appeal.